

### **REMARKS**

Claims 1-8 are pending in the application. Claims 9-45 have been withdrawn as being directed to non elected subject matter.

Claim 1 has been amended to emphasize that the combination of naturally occurring oils in the lipid system provide the fatty acid ratios. Support for this amendment can be found in Applicants' specification at p. 9, lines 6-7 and p. 26, lines 6-7.

Claim 8 has been amended to clarify that the lipid system comprises from 30 to 90% flaxseed oil, from 0 to 60% high oleic safflower oil, and from 0 to 10% corn oil. Support for this amendment can be found in Applicants' specification at p. 9, lines 4-5.

### **Invention Synopsis**

The claimed embodiment are directed to a lipid system comprising alpha-linolenic acid (C18:3n-3), omega-6 fatty acids, and omega-9 fatty acids, wherein the ratio of the omega-6 fatty acids to alpha-linolenic acid (C18:3n-3) is from about 0.25:1 to about 3:1, and the ratio of the omega-9 fatty acids to alpha-linolenic acid (C18:3n-3) is from about 0.4:1 to about 3:1, wherein the fatty acid ratios are provided by the combination of total lipids in the lipid system.

It has been found that the lipid system provides optimized ratios of essential and non-essential fatty acids that can improve the glucose tolerance of a glucose intolerant individual, improve the insulin sensitivity of an insulin resistant individual, and reduce the risk of vascular disease in a individual at risk for vascular disease.

### **Examiner Interview**

Applicants' undersigned attorney gratefully acknowledges the telephonic interview granted by Examiner Carr on September 13, 2007, during which the pending prior

art rejections and cited reference were discussed. Sandra Weida and William Winter (Attorneys for the Applicants) and Vikkie Mustad and Stephen Demichelle (Inventors) participated in the interview. The substance of the interview is embodied in the following remarks.

#### **Rejection under 35 USC 102**

Claims 1-7 have been rejected under 35 USC 102(a) as anticipated by U.S. Patent Publication 2004/0062847 (Koike). The Examiner contends that this particular reference, specifically Table 1, Invention product #3, discloses the relative amounts of fatty acids as recited in the present claims. Applicants respectfully traverse this rejection as it would apply to the amended claims.

The Koike reference discloses oil/fat compositions comprising 0.1-49.9% diglycerides and 5-99.9% monoglycerides (Koike, Abstract). The oil/fat compositions are prepared by "either one of chemical reaction in the presence of an alkali catalyst or biochemical reaction using an enzyme such as lipase (Koike, page 2, par. 0021 and Example 1). Koike specifically discloses in Table 1, Invention product #3, an oil/fat composition comprising 3.8% triglycerides, 32% diglycerides, and 64.2% monoglycerides, wherein the "MG-constituting fatty acids" include C18:3 n-3 (40.5%), C18:1n-9 (34.3%), C18:2 n-6 (14.0%), C16:0 (7.7%), and C18:0 (3.0%). Koike emphasizes, however, that the fatty acid profiles of Table 1 are provided by the monoglyceride component of the oil/fat composition:

"In Table 1, the oil/fat compositions thus prepared and analytical results of *fatty acids constituting a monoglyceride are shown*" (emphasis added) (Koike, p. 4, par. 0052).

The Examiner contends that the oil/fat composition in Table 1, col. 3 is composed of 64.25 monoglycerides and 32.0% diglycerides and that although the diglyceride content is not listed, the Koike reference discloses that the "diglyceride to be used in the present invention is preferred to have fatty acid constituents *similar* to those of the monoglyceride" (emphasis added) (Koike, p. 2, par. 0015). However, Koike fails to provide a specific example of the fatty acid constituents of the diglyceride

component of the oil/fat composition. Koike merely discloses that the fatty acid constituents of the diglyceride component of the oil/fat composition are "similar to", rather than *identical to* those of the monoglyceride. Further, although the fatty acids constituting the monoglyceride portion of the oil/fat composition are specified in claim 1 of Koike, the fatty acid constituents of the diglyceride portion of the oil/fat composition are not specified. As such, Koike fails to disclose the fatty acid ratios as recited in the present claims.

However, in an effort to advance prosecution, Applicants have now amended claim 1 to emphasize that that the combination of naturally occurring oils in the lipid system provide the fatty acid ratios.

As discussed supra, the oil/fat compositions disclosed by Koike are prepared by either chemical or biochemical reaction. As such, Applicants submit that Koike fails to disclose the fatty acid ratios of claims 1-8 since the combination of naturally occurring oils in the lipid system provide the claimed fatty acid ratios, whereas the fatty acid profiles disclosed by Koike are provided by oil/fat compositions that are prepared by either chemical or biochemical reaction.

In view of the foregoing remarks, Applicants respectfully request withdrawal of this rejection as it would apply to the amended claims.

#### **Rejections under 35 USC 112**

Claim 8 has been rejected under 35 USC 112, first paragraph, for lack of enabling disclosure in the specification. The Examiner contends that while the specification is enabling for "lipid systems comprising 30-90% flaxseed oil, 0-60% high oleic safflower oil and 0-10% corn", the specification does not provide enablement for the phrase "lipid system comprises from about 30 to about 90% flaxseed oil, and at least one of high oleic safflower oil and corn oil."

Responsive to this rejection, Claim 8 has been amended to clarify that the lipid system comprises from 30 to 90% flaxseed oil, from 0 to 60% high oleic safflower

oil, and from 0 to 10% corn oil.

Claims 1-8 have been rejected under 35 USC 112, first paragraph, for lack of enabling disclosure in the specification. The Examiner contends that specification does not provide enablement for the phrase "wherein the fatty acid ratios are provided by the combination of total lipids in the lipid system." Responsive to this rejection, Claim 1 has been amended to delete the phrase "wherein the fatty acid ratios are provided by the combination of total lipids in the lipid system" and to instead emphasize that the combination of naturally occurring oils in the lipid system provide the fatty acid ratios.

Applicants respectfully submit that claims 1-8, as amended, are now in full compliance with the requirements of 35 USC 112, first paragraph. Applicants therefore respectfully request withdrawal of these rejections.

#### **Conclusion**

Applicants respectfully request reconsideration of this application and allowance of claims 1-8.

Respectfully submitted,

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